



LEO BURNETT COMPANY, INC.

July 27, 1992

David Rees Davies, Esq.
Associate General Counsel
Philip Morris Incorporated
120 Park Avenue
New York, NY 10017-5592

Re: Wayne McLaren

Dear David:

Pursuant to our conversation, we have attached the documentation we now found regarding Mr. McLaren. He and three other models were hired in 1984 to appear in a photograph used in point-of-sale materials for a Marlboro Poker Cards promotion. Despite past searches, we were finally able to locate records naming Mr. McLaren based on the allegations made by Robert Kenneally of Associated Talent. In Mr. Kenneally's affidavit, which we just received on Friday afternoon (July 24), he alleged that payment to Associated Talent was made for Mr. McLaren's services specifically in December, 1984.

As you know, Mr. McLaren originally claimed that he appeared in Marlboro advertising in 1975, or the mid-1970's (see the Wall Street Journal article of September 26, 1991 and the Chicago Sun-Times article of September 27, 1991). We no longer have any financial or talent records on file from 1970 through 1981; they were destroyed pursuant to our file retention policy. Therefore, to try to identify Mr. McLaren in any Marlboro ad for that period, we visually reviewed all Marlboro advertising from 1970 through 1980, and did not find any advertising in which Mr. McLaren appeared. We asked our Broadcast Business Department to check whether payment had been made to Mr. McLaren for any television advertising. The payroll service we use to pay television talent could not locate any record of payment to Mr. McLaren for any Philip Morris/Leo Burnett television production. We also questioned Ken Krom, the senior Marlboro Creative Director for over 20 years, and the Marlboro cowboys, Darrell Winfield and Dean Myers, who have been Marlboro cowboys for years, to see if they remembered Mr. McLaren. They had no recollection of him.

no names

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an associate of

Mr. McLaren later claimed that he was the cowboy shown in the Marlboro ad which appeared in the May, 1981 issue of Playboy. After obtaining a copy of that issue from Playboy Magazine, we found the ad in question, and could identify the cowboy who appeared in the Marlboro ad in that issue, as ~~Jerry Dominick~~, one of our regular Marlboro cowboys, *who works with us to this day.*

When we originally searched our records we were looking for payment made to a "Wayne McLaren" for the years he claimed he had appeared in Marlboro advertising. It is important to note that it is very unusual for a talent agency to have been used to hire any models for Marlboro at all. We suspect it was done, however, on this occasion because it was a special promotion, and to expedite production we had asked the agency to provide four models to portray "old time" western poker players on a one-time only basis. We were not looking for the traditional Marlboro cowboy image.

We first saw the Associated Talent's affidavit on Friday afternoon, it was then we learned of the new allegation - that we made payment to that agency in December, 1984, for a shoot held in October, 1984. Given this new detailed information and new claim, we searched records - this time searching for payment made to a Wayne McLaren or to Associated Talent on or about those new dates. We found a check payable to Associated Talent, referencing a shoot occurring in October, 1984 using a photographer James Wood. Although there were at least five Marlboro advertising shoots taken during the months of October and November, 1984, none were with Mr. Wood. The Marlboro Creatives were questioned about Mr. McLaren, and about any shoot taken by a photographer James Wood. One person personally remembered Mr. Wood, but not Mr. McLaren. The creative responsible for the shoot advised that Mr. Wood had been used as a Marlboro photographer once, for a photo needed in a promotional piece (not an ad). When checked, we learned that one promotional shoot occurred in October, 1984. We were able to locate the files from that promotional shoot, and then found a release signed by Mr. McLaren for that photograph Mr. Wood was hired to take. The Burnett creative at the shoot never even personally knew the names of the models.

Due to the "sepia-toned" photography used in the promotional materials to make the photograph appear very old, it is difficult to identify which model is Mr. McLaren. For your information, only point-of-sale materials were produced, no magazine or outdoor advertising was produced for this promotion. This was a one time promotion which was probably on-shelf for about three months.

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Attached, for your files, is the following:

1. Wayne McLaren's release for use of his likeness in the Marlboro promotional materials;
2. A check payable to Associated Talent for the services of Wayne McLaren;
3. A copy of the first page of the promotional brochure for the Marlboro Poker Cards promotion, on which the photograph appears.

Please call if you need any additional information.

Sincerely,

LEO BURNETT COMPANY, INC.

Kathleen A. Ring
Kathleen A. Ring
Attorney

/jmk
Attachments

cc: Carla Michelotti, Esq. - Leo Burnett ny, Inc.

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